

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Miloushev et al.

Application No.: 10/043,413

Group No.: 2142

Filed: January 10, 2002

For: File Switch and Switched File System

**Mail Stop Amendment**

**Commissioner for Patents**

**P.O. Box 1450**

**Alexandria, VA 22313-1450**

**TRANSMITTAL OF SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT  
WITHIN THREE MONTHS OF FILING OR  
BEFORE MAILING OF FIRST OFFICE ACTION (37 C.F.R. § 1.97(b))**

**IDENTIFICATION OF TIME OF FILING THE ACCOMPANYING  
INFORMATION DISCLOSURE STATEMENT**

The information disclosure statement submitted herewith is being filed within three months of the filing date of the application or date of entry into the national stage of an international application or before the mailing date of a first Office action on the merits, whichever event occurs last. 37 C.F.R. § 1.97(b).

DATE: December 24, 2008

/Jeffrey T. Klayman, #39,250/

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03193/00102 988193.1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Miloushev et al.

Group No.: 2142

Application Number: 10/043,413

Examiner: Prieto, Beatriz

Filing Date: January 10, 2002

Title: **File Switch and Switched File System**

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**SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT**

### **List of Sections Forming Part of This Information Disclosure Statement**

The following sections are being submitted for this Information Disclosure Statement:

*(check sections forming a part of this statement: discard unused sections and number pages consecutively)*

1. ☒ Preliminary Statements
2. ☒ Forms PTO/SB/08A and 08B (substitute for Form PTO-1449)
3. ☒ Statement as to Information Not Found in Patents or Publications
4. ☐ Identification of Prior Application in Which Listed Information Was Already Cited and for Which No Copies Are Submitted or Need Be Submitted
5. ☐ Cumulative Patents or Publications
6. ☒ Copies of Listed Information Items Accompanying This Statement
7. ☒ Concise Explanation of Non-English Language Listed Information Items
  - 7A. ☐ EPO Search Report
  - 7B. ☐ English Language Version of EPO Search Report
8. ☒ Translation(s) of Non-English Language Documents
9. ☒ Concise Explanation of English Language Listed Information Items (Optional)
10. ☒ Identification of Person(s) Making This Information Disclosure Statement

*(complete the following, if appropriate)*

Sections \_\_\_\_\_, respectively, have been continued on ADDED PAGE(S).

*NOTE : "Once the minimum requirements are met, the examiner has an obligation to consider the information." Notice of April 20, 1992 (1138 O.G. 37-41, 37).*

## **Section 1. Preliminary statements**

Applicants submit herewith patents, publications or other information, of which they are aware that they believe may be material to the examination of this application, and in respect of which, there may be a duty to disclose.

The filing of this information disclosure statement shall not be construed as a representation that a search has been made (37 C.F.R. section 1.97(g)), an admission that the information cited is, or is considered to be, material to patentability, or that no other material information exists.

The filing of this information disclosure statement shall not be construed as an admission against interest in any manner. Notice of January 9, 1992, 1135 O.G. 13-25, at 25.

SECTION 2: FORMS PTO/SB/08A and 08B (formerly Form PTO-1449)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Miloushev et al.  
 Application Number: 10/043,413  
 Filing Date: January 10, 2002  
 Title: **File Switch and Switched File System**

Group No.: 2142  
 Examiner: Prieto, Beatriz

**LIST OF PATENTS AND PUBLICATIONS FOR  
 APPLICANT'S INFORMATION DISCLOSURE STATEMENT**

**U.S. Patent Documents**

Examiner Initials	Ref Num.	Patent	Issue Date	Inventor	Class/ Subclass
		6161336	01/30/2001	Chiu et al.	715/736
		6742035	05/25/2004	Zayas et al.	709/226

OTHER DOCUMENTS			
Examiner Initials	Reference Number	Author	Description
		J. Klayman	Copy of 11/13/2008 e-mail to Japanese associate including instructions for response to office action dated 5/26/08 in corresponding Japanese patent application no. 2002-556371.
		H. Uesugi	Copy of 11/25/2008 argument filed by Japanese associate in response to office action dated 5/26/08 in corresponding Japanese patent application no. 2002-556371.
		H. Uesugi	Copy of 11/25/2008 amendment filed by Japanese associate in response to office action dated 5/26/08 in corresponding Japanese patent application no. 2002-556371.
		V. Korkuzas	Copy of Communication pursuant to Article 96(2) EPC dated 11/9/2007 in corresponding European patent application no. 02718824.2.
		C. Harrison	Copy of 5/19/2008 response to Communication pursuant to Article 96(2) EPC dated 11/9/2007 in corresponding European patent application no. 02718824.2.

Examiner: \_\_\_\_\_ Date Considered: \_\_\_\_\_

NOTE FOR EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; draw line through citation if not in conformance AND not considered. Include copy of this form with next communication to applicant.

**Section 3.** Statement as to Information Not Found in Patents or Publications (Information Not Listed in Forms PTO/SB/08A and 08B (substitute for Form PTO-1449))

The following patent applications may include technically-related subject matter and/or claims that are similar to this application:

<b>Atty Docket</b>	<b>Appl. No.</b>	<b>File Date</b>	<b>Title/Description</b>	<b>Inventors</b>
3193/102	10/043,413	1/10/2002	File Switch and Switched File System	Vladimir Miloushev, Peter Nickolov
3193/103	10/336,704	1/2/2003	Transaction Aggregation in a Switched File System	Vladimir Miloushev, Peter Nickolov
3193/104	10/336,833	1/2/2003	Directory Aggregation for Files Distributed Over a Plurality of Servers in a Switched File System	Vladimir Miloushev, Peter Nickolov
3193/105	10/336,835	1/2/2003	Metadata Based File Switch and Switched File System	Vladimir Miloushev, Peter Nickolov
3193/106	10/336,832	1/2/2003	Rule Based Aggregation of Files and Transactions in a Switched File System	Vladimir Miloushev, Peter Nickolov
3193/107	10/336,834	1/2/2003	Aggregated Lock Management for Locking Aggregate Files in a Switched File System	Vladimir Miloushev, Peter Nickolov
3193/108	10/336,784	1/2/2003	Aggregated Opportunistic Lock and Aggregated Implicit Lock Management for Locking Aggregated Files in a Switched File System	Vladimir Miloushev, Peter Nickolov
3193/111	11/337,190	1/20/2006	Scalable System for Partitioning and Accessing Metadata Over Multiple Servers	Francesco Lacapra
3193/112	11/041,147	1/21/2005	File-based Hybrid File Storage Scheme Supporting Multiple File Switches	Francesco Lacapra
3193/113	11/072,892	3/3/2005	System and Method for Managing Small-Size Files in an Aggregated File System	Francesco Lacapra, Srinivas Duvvuri
3193/109	11/285,677	11/21/2005	Directory Aggregation for Files Distributed Over a Plurality of Servers in a Switched File System	Vladimir Miloushev, Peter Nickolov
3193/115	11/724,107	3/14/2007	Transaction aggregation in a switched file system	Vladimir Miloushev, Peter Nickolov

The Examiner is requested to review the entire file histories of these applications, including cited references, Office Actions, Responses, etc., and is asked to contact Applicant's Attorney if the Examiner would like the Applicant to supply copies of any or all of the information included in any of these applications. For any of these applications, if Applicant's Attorney is not contacted by the Examiner with such a request, then it will be assumed that the Examiner has reviewed or will review the file content of the application. The identification of the above-identified applications is not a waiver of secrecy for any of the applications.

## Section 6. Copies of Listed Information Items Accompanying This Statement

*NOTE: 37 C.F.R. section 1.98(a)(2) requires that any information disclosure statement filed under section 1.97 shall include: "A legible copy of: (I) Each U.S. and foreign patent; (ii) Each publication or that portion which caused it to be listed; and (iii) All other information or that portion which caused it to be listed, except that no copy of a U.S. patent application need be included . . ."*

*NOTE: The wording in section 1.98(a)(2)(iii) makes it clear that the requirement to submit a copy of each item of information listed in an information disclosure statement does not apply to the citation of a U.S. patent application. Notice of January 9, 1992, 1135 O.G. 13-25, at 14.*

Legible copies of all items listed in Forms PTO/SB/08A and 08B (substitute for Form PTO-1449) accompany this information statement.

*(complete the following, if applicable)*

☒ Exception(s) to above:

**U.S. patent citations are not included pursuant to the United State Patent and Trademarks Office's September 21, 2004 waiver of the copy requirement in 37 CFR 1.98 for cited pending U.S. patent citations when the patent citations are available in the USPTO's IFW system.**

☐ Items in prior application, from which an earlier filing date is claimed for this application, as identified in Section 4.

☐ Cumulative patents or publications identified in Section 5.

## Section 7. Concise Explanation of Non-English Language List Information Items

**NOTE:** *"A concise explanation of the relevance, as it is presently understood by the individual designated in section 1.56(c) most knowledgeable about the content of the information of each patent, publication, or other information listed that is not in the English language shall be included in any information disclosure statement filed under section 1.97. The concise explanation may be either separate from the specification or incorporated therein." 37 C.F.R. section 1.98(a)(3).*

**NOTE:** *"[T]he explanation required is limited to the relevance as understood by the individual designated in section 1.56(c) most knowledgeable about the content of the information at the time the information is submitted to the Office." Notice of January 9, 1992, 1135 O.G. 13-25 at 14.*

**NOTE:** *"Where the information listed is not in the English language, but was cited in a search report by a foreign patent officer, the requirement for a concise explanation of relevance is satisfied by submitting an English language version of the search report." Notice of January 9, 1992, 1135 O.G. 13-25. at 14.*

**NOTE:** *"The concise explanation requirement for non-English language information may be met by submission of an English language version of the search report indicating the degree of relevance found by the foreign office." Notice of January 9, 1992, 1135 O.G. 13-25, at 20.*

**WARNING:** *"The requirement in section 1.98(a)(3) for a concise explanation of non-English language information would not be satisfied by a statement that a reference was cited in the prosecution of a parent application." Notice of January 9, 1992, 1135 O.G. 13-25 at 20 (emphasis added).*

According to Hiroshi Uesugi, the Japanese attorney handling Japanese patent application no. 2002-556371, the Japanese language argument and amendment are based on the information provided in the 11/13/2008 e-mail.



## Section 8. Translation(s) of Non-English Language Documents

NOTE: *"If a written English language translation of a non-English language document, or portion thereof, is within the possession, custody or control of, or is readily available to any individual designated in section 1.56(c), a copy of the translation shall accompany the statement." 37 C.F.R. section 1.98(c).*

NOTE: *"The Office does not intend to require translations unless they have been reduced to writing and are actually translations of what is contained in the non-English language information. Applicants should note, however, that most examiners do not have the ability to understand information which is not in English and that the Office will not routinely translate information submitted in a non-English language. The examiner will consider the information insofar as it is understood on its face, e.g., drawings, chemical formulas, English language abstracts, but will not have the information translated unless it appears to be necessary to do so. Applicants are required to aid the examiner by complying with the requirements for a concise explanation in section 1.98(a)(3) for information submitted in a non-English language." Notice of January 9, 1992, 1135 O.G. 13-25, at 21.*

NOTE: *"The examiner will indicate that the non-English language information has been considered in the same manner as consideration is indicated for information submitted in English." Notice of April 20, 1992 (1138 O.G. 37-41, 41).*

- ☐ Submitted herewith is an English translation of the following foreign language patents, publications or information or of those portions of those patents, publications or information considered to be material:

*(complete the following, if applicable)*

- ☒ No English language translations of the foreign language patents, publications or information or parts thereof are readily available, except for those listed above.
- ☐ The following foreign language documents submitted are believed to be the equivalent or substantial equivalent of the English language documents identified below, which are also submitted herewith.

## Section 9. Concise Explanation of English Language Listed Information Items

*NOTE: "Applicants may, if they wish, provide a concise explanation of why English-language information is being submitted and how it is understood to be relevant. Concise explanations are helpful to the Office, particularly where documents are lengthy and complex and applicant is aware of a section that is highly relevant to patentability or where a large number of documents are submitted and applicant is aware that one or more are highly relevant to patentability." Notice of April 20, 1992 (1138 O.G. 37-47, 38).*

Applicants had previously disclosed a copy of the 5/26/2008 office action for the corresponding Japanese patent application. Applicants have disclosed in Section 2 above copies of the argument and amendment filed in response to that office action (in Japanese). Since translations of these documents are not readily available, Applicants have also disclosed a copy of the instructions that were sent to the Japanese associate who prepared the argument and amendment. According to the Japanese attorney, the Japanese language argument and amendment are based on the information provided in Applicants' instructions.

Applicants also have disclosed in Section 2 above copies of a European office action and response from the corresponding European patent application.

The Chiu and Zayas patents disclosed in Section 2 above were cited in an office action dated September 26, 2008 in U.S. Application No. 11/337,190 (attorney docket no. 3193/111, cited in Section 3 above).

Because the references disclosed in Section 2 above relate to prosecution of related patent applications, the Examiner may find such references to be relevant to examination of the subject patent application. Applicants are not submitting these references in an attempt to prolong prosecution or hide information that may be material to patentability. Applicants' attorney has reviewed the references and believes that none is more relevant to the subject patent application than the references already of record. Nevertheless, Applicants request that the Examiner perform an independent review of the references.

Submission of any particular reference is not an admission that the reference is material to patentability or qualifies as prior art to one or more of the claims.

**Section 10. Identification of Person(s) Making This Information Disclosure Statement**

The person making this certification is

*(check each applicable item)*

- (a) ☐ the inventor(s) who signs below

\_\_\_\_\_  
**SIGNATURE OF INVENTOR**

\_\_\_\_\_  
*(type name of inventor who is signing)*

- (b) ☐ an individual associated with the filing and prosecution of this application (37 C.F.R. section 1.56(c))

\_\_\_\_\_  
**SIGNATURE OF INVENTOR**

\_\_\_\_\_  
*(type name of inventor who is signing)*

- (c) ☒ the practitioner who signs below on the basis of the information:

*(check each applicable item)*

☐ supplied by the inventor(s).

☐ supplied by an individual associated with the filing and prosecution of this application. (37 C.F.R. section 1.56(c)).

☒ in the practitioner's file.

/Jeffrey T. Klayman, #39,250/

\_\_\_\_\_  
**SIGNATURE OF PRACTITIONER**

Jeffrey T. Klayman

\_\_\_\_\_  
*(type or print name of practitioner)*

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